

Douglas E. Dexter, SB# 115868
Diego F. Acevedo, SB# 244693
FARELLA BRAUN + MARTEL LLP
235 Montgomery Street, 17th Floor
San Francisco, CA 94104
Telephone: (415) 954-4400
Facsimile: (415) 954-4480
E-mail: ddexter@fbm.com
E-mail: dacevedo@fbm.com

Mark A. Knueve (Ohio Bar No. 0067074)
Daniel J. Clark (Ohio Bar No. 0075125)
VORYS, SATER, SEYMOUR AND PEASE LLP
52 East Gay Street
P.O. Box 1008
Columbus, Ohio 43216-1008
Telephone: (614) 464-6387
Facsimile: (614) 719-4808
E-mail: maknueve@vorys.com
E-mail: djclark@vorys.com

Attorneys for Defendants
ABERCROMBIE & FITCH STORES, INC. dba
HOLLISTER CO, HOLLISTER CO. CALIFORNIA,
LLC

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

and

UMME-HANI KHAN,

Plaintiff-Intervenor

vs.

ABERCROMBIE & FITCH STORES, INC.
dba HOLLISTER CO., HOLLISTER CO.
CALIFORNIA, LLC,

Defendants.

Case No.: CV 11-3162 YGR

**JOINT NOTICE OF EFFORTS TO MEET
AND CONFER ; AND ORDER RE SAME**

On January 29, 2013, the Court held a hearing on Defendants' Motion for Sanctions [Doc. #68] filed against CAIR-California ("CAIR-CA") based upon CAIR-CA's purported failure to provide a 30(b)(6) witness as ordered by the Court. At the conclusion of the hearing, the Court

1 instructed Counsel for Defendants and Counsel for CAIR-CA to meet in-person and to discuss
2 what subjects Defendants still needed CAIR-CA to provide testimony on. Counsel for Defendants
3 and for CAIR-CA met for nearly two hours following the hearing.

4 **A. Subjects for Further Inquiry**

5 Defendants identified two topics that are within the scope of the Court's October 17, 2012
6 Order that additional testimony from a CAIR-CA designated witness is needed. First, Defendants
7 need CAIR-CA to testify to its non-privileged, relevant communications with the EEOC during
8 the EEOC's investigation and conciliation process, including the offer of reinstatement.

9
10 Second, Defendants requested that CAIR-CA provide testimony regarding non-privileged,
11 relevant communications with Ms. Khan regarding Abercrombie or her allegations against
12 Abercrombie or CAIR-CA's communications regarding Ms. Khan's allegations. To further
13 specify the communications at issue in greater detail, Defendants explained that the exhibits from
14 Mr. Ayloush's deposition reflect statements by CAIR-CA or its representatives regarding Ms.
15 Khan's allegations. For the statements reflected in the exhibits, Defendants are interested in
16 whether the statement was made based upon information provided to CAIR-CA by Ms. Khan or
17 by Abercrombie.
18

19 **B. Process for Obtaining Testimony**

20 Defendant had envisioned that CAIR-CA would provide a designated witness for
21 deposition. However, Counsel for CAIR-CA suggested that many of the subjects could be easily
22 addressed by CAIR-CA in a sworn declaration or affidavit rather than through another deposition.
23 Given that Defendants have already expended time and resources on a deposition, both parties
24 agreed that CAIR-CA will provide written sworn testimony in response to specific questions
25 identified by Abercrombie. Counsel discussed a process whereby Abercrombie would provide
26 within 7 days written questions to CAIR-CA addressing specific matters related to the above-
27 described topics. CAIR-CA would provide answers in writing and under oath by an adequate
28

1 representative 14 days thereafter. Ideally, CAIR-CA's written answers would be sufficient and
 2 would avoid the need for a deposition. However, given the limitations of written testimony,
 3 Abercrombie reserves the right to take the deposition if still necessary after Defendants have
 4 received CAIR-CA's written responses, and have met and conferred with CAIR-CA regarding any
 5 outstanding issues, in the event that CAIR-CA's written responses were inadequate, unclear, or
 6 incomplete. CAIR-CA reserves the right to seek the Court's protection if CAIR-CA believes that
 7 Defendants' attempt is not necessary and after the parties meet and confer.
 8

9
 10 Respectfully submitted,

11 /s/Daniel J. Clark

12 Mark A. Knueve (Ohio Bar No. 0067074) Admitted Pro Hac Vice
 13 Daniel J. Clark (Ohio Bar No. 0075125) Admitted Pro Hac Vice
 14 VORYS, SATER, SEYMOUR AND PEASE LLP
 52 East Gay Street
 P.O. Box 1008
 Columbus, Ohio 43216-1008
 Telephone: (614) 464-6387
 Facsimile: (614) 719-4808
 E-mail: maknueve@vorys.com
 E-mail: djclark@vorys.com

17 Douglas E. Dexter, SBN 115868
 18 Diego Acevedo, SB# 244693
 19 FARELLA BRAUN + MARTEL LLP
 235 Montgomery Street, 17th Floor
 San Francisco, CA 94104
 Telephone: (415) 954-4400
 Facsimile: (415) 954-4480
 E-mail: ddexter@fbm.com
 E-mail: alee@fbm.com

22 Attorneys for Defendants
 23 ABERCROMBIE & FITCH STORES, INC.
 24 HOLLISTER CO.

25
 26 /s/ Aliah A. Abdo, Esq.

27 Omair M. Farooqui, Esq.
 David R. Lawson, Esq.
 Aliah A. Abdo, Esq.
 28 Ellahie & Farooqui, LLP
 12 South First Street, Suite 600
 San Jose, California 95113

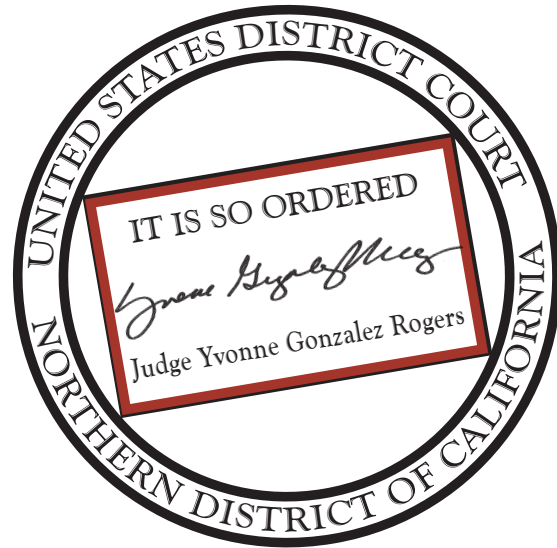
Phone: (408) 294-0404
Fax: (408) 294-6659
E-Fax: (408) 886-9468
www.eflawfirm.com

Attorneys for Third-Party CAIR-CA

ORDER

The Court ORDERS that Defendants and third-party CAIR exchange the information as set forth herein.

Dated: February 5, 2013



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **JOINT NOTICE OF EFFORTS TO MEET AND CONFER** was electronically filed on January 30, 2013, with the Clerk of Court through the CM/ECF system, which will send notice of electronic filing to the following:

Christopher Ho, State Bar No. 129845
Araceli Martínez-Olguín, State Bar No. 236561
The LEGAL AID SOCIETY – EMPLOYMENT LAW CENTER
180 Montgomery Street, Suite 600
San Francisco, CA 94104
Telephone: (415) 864-8848
Facsimile: (415) 593-0096
Email: cho@las-elc.org, araceli@las-elc.org

Zahra Billoo, State Bar No. 267634
COUNCIL ON AMERICAN-ISLAMIC RELATIONS (CAIR)
3000 Scott Blvd., Suite 101
Santa Clara, CA 95054
Telephone: (408) 986-9874
Facsimile: (408) 986-9875
Email: zbilloo@cair.com

Attorneys for Intervenor
UMME-HANI KHAN

Sirithon Thanasombat
Marcia L. Mitchell, SBN 18122 (WA)
U.S. EEOC, San Francisco District Office
350 The Embarcadero, Suite 500
San Francisco, CA 94105
Telephone No. (415) 625-5651
Fax No. (415) 625-5657
Sirithon.Thanasombat@eeoc.gov
Marcia.Mitchell@eeoc.gov

Attorneys for Plaintiff EEOC

/s/ Aliah Abdo
Aliah Abdo